IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 13830 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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RAMNIKLAL LAXMICHAND SHAH - Petitioner(s)

Versus

DIVISIONAL CONTROLLER GSRTC - Respondent(s)

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Appearance :

MR TR MISHRA for Petitioner(s) : 1,
MS SEJAL K MANDAVIA for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 14/09/2005

ORAL JUDGMENT

1. Rule. Learned Advocate Ms. Mandavia appearing for the respondent waives service of Rule. At the joint request of learned advocates appearing for the parties, the petition is taken up for final disposal today.

2. In the present petition, the petitioner employee has made a grievance that he is not paid the revised pay counting the increments during the forced idle period and further that he is not paid bonus for the period in question nor is he granted credit of leave.

3. The petitioner workman had succeeded in complaint (IT No.192/99 filed in Reference IT No.108/96). The Industrial Tribunal, Ahmedabad by its order dated 24/2/2004 allowed the complaint application filed by the petitioner workman. The dismissal order dated 30th April, 1996 was declared to be illegal in violation of Section 33 of the Industrial Disputes Act and the same was set aside. The workman was ordered to be reinstated in original post with continuity. Considering the fact that the workman had complained about his dismissal of 1996 by filing an application on 29/10/1999, the Labour Court observed that the workman will not be entitled to back wages for the period between 30th April, 1996 till 29th October, 1999. Eventually, the Industrial Tribunal passed an order directing reinstatement of the workman with continuity, however only for period from 29/10/1999 onwards the workman was held entitled to receive all consequential benefits including full pay. The S.T.

Corporation challenged the order passed by the Industrial Tribunal. This Court by order dated 24/11/2004 upheld the order for reinstatement. However, the payment of back wages from 29/10/1999 till actual reinstatement was reduced from 100% to 50%. In this factual background the grievance made by the petitioner is that he is not granted increment nor is he paid bonus for the intervening period and leave due has also not been credited to his account.

4. By order dated 2nd March, 2005 the pay of the petitioner has been fixed by the S.T. Corporation. It can be seen that he is granted notional increments from 29/10/1999 onwards.

5. The Industrial Tribunal granted reinstatement and continuity. The back wages were ordered to be paid from 29/10/1999 onwards. Prior to 29/10/1999 therefore, the petitioner cannot claim other consequential benefits such as increments, bonus etc. In a recent decision of **APSRTC Vs. Abdul Karim reported in 2005 (6) SCC 36**, the Hon'ble Supreme Court observed that workman is not entitled to consequential relief on reinstatement as a matter of course unless specifically directed by the forum granting such reinstatement. Till 29/10/1999 therefore, the claim

of the petitioner for all consequential benefits cannot be accepted.

6. Post 29/10/1999, the situation is somewhat different. The Industrial Tribunal specifically granted reinstatement, continuity, 100% back wages and all other consequential benefits after 29/10/1999. This Court modified the order only by reducing the benefits of back wages to 50%. Thus there was a clear mandate in the orders passed by the Industrial Tribunal as modified by this Court that the workman will be entitled to all consequential benefits after 29/10/1999. Learned Advocate Shri Mishra pointed out that learned Single Judge of this Court in a decision of **Vepak Vikas Co-operative Bank Ltd. vs. Ghansyam Lallubhai Patel reported in 2001 (90) FLR 186** held that word wages includes other benefits also. The Division Bench of this High Court in a decision of **Vijay Kumar vs. State of Uttaranchal and Ors. reported in 2004 (102) FLR 624** also held that when workman is reinstated with back wages it will include all monetary benefits including bonus accrued.

7. Based on the above mentioned decisions, I find that after 29/10/1999 the petitioner would be entitled to receive bonus as payable under the Rules as also to seek

credit of the leave to his leave credit. Accordingly respondents are directed to grant such benefits to the petitioner as expeditiously as possible and preferably before the retirement of the petitioner. With these directions, the petition is disposed of. Rule is made absolute. No order as to costs.

(Akil Kureshi, J.)

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